

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:23-MC-00024-FDW-SCR**

IN RE EX PARTE APPLICATION OF)
)
JOSE HENRIQUE SOARES PEREIRA,)
)
Petitioner for an Order Pursuant to 28)
U.S.C. §1782 to Take Discovery for use in)
Contemplated Proceedings in the)
Federative Republic of Brazil)
)
)
v.)
)
NUCOR CORPORATION,)
)
Respondent.)

ORDER

THIS MATTER is before the Court on Petitioner Jose Henrique Soares Pereira’s “Ex Parte Application for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in a Contemplated Foreign Proceeding” (Doc. No. 1) filed February 14, 2023.

On April 18, 2023, the Application was referred to the undersigned.

Petitioner seeks an Order for discovery pursuant to 28 U.S.C. § 1782 from a person located within this district [Nucor Corporation (“Nucor”)] for use in contemplated litigation before the Brazilian State Court in Brazil.

As Petitioner concedes, whether to issue the Order on an ex parte basis or to hold the Application in abeyance pending a response from Nucor is within the District Court’s broad discretion. In re Merck & Co., Inc., 197 F.R.D. 267, 270-71 (M.D.N.C. 2000) (where underlying litigation was a patent case in England, due to concerns of “long distance and short time present

in the case,” court allowed all interested parties opportunity to respond prior to granting application for discovery from witnesses located in Greensboro, North Carolina).

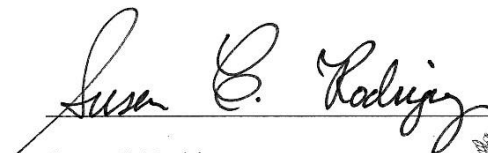
The Court concludes that Nucor and any other interested party should be allowed a reasonable opportunity to respond to the Application.

NOW THEREFORE IT IS ORDERED that:

1. Petitioner Jose Henrique Soares Pereira’s “Ex Parte Application for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in a Contemplated Foreign Proceeding” (Doc. No. 1) is **HELD IN ABEYANCE** pending the briefing schedule set forth below.
2. Counsel for Petitioner shall immediately serve (by both electronic and regular mail) copies of this Order, along with the Application, Memorandum in Support, and all other supporting documents, on Nucor Corporation, and shall promptly certify to the Court that said service has been made.
3. Nucor Corporation and any other interested party wishing to file a response to the Application shall do so on or before May 18, 2023. Replies to any response shall be due seven days after the response is filed.
4. The Clerk is directed to send copies of this Order to Petitioner’s counsel, and to the Honorable Frank D. Whitney.

SO ORDERED.

Signed: April 18, 2023


Susan C. Rodriguez
United States Magistrate Judge

